

Application No. 09/941,151
Amendment dated October 18, 2004
Pending Appeal

Remarks

The Examiner has declined to enter the amendment after final rejection submitted on September 24, 2004, for the reason that it raised new issues. This amendment is identical to the amendment of September 24, 2004, except that it deletes the portion of the amendment that is said to have raised the new issues, and places the application in condition for allowance.

The word "feedback" remains in claim 49. Claim 49 is being amended back to the original form it had before the first office action, and as to which no section 112 rejection was raised. Accordingly, this claim is allowable. The amendment back to the claims previous form raises no new issues.

The amendment to the specification is made to satisfy the Examiner's objection, raised for the first time in the final rejection, that the specification failed to provide proper antecedent basis for the phrase "feedback information". This phrase appeared in the claim examined in the first Office Action, but was not objected to in the first Office Action. The amendment to the specification is in accordance with the correction suggested by the Examiner on page 3 of the Office Action of February 24, 2004. No new matter is added.

The Examiner has considered the new claims 85-110 as directed to inventions distinct from what is claimed in the elected claims and has withdrawn them from consideration. These claims are canceled.

The Examiner had objected to the color drawings, which include screen prints of computer displays. Non-color replacement drawings were submitted with the amendment of June 2, 2004, and approved by the Examiner in the Advisory Action of August 31, 2004. These overcome the objection stated in the Office Action.

The Examiner had rejected claims 49-62 under 35 U.S.C. §112 for the reason that the specification does not use the term "custom design". The problem with claim 49 arose when the claim was amended after the first Office Action, which found no §112 problems present in original claim 49. The amendment of claim 49 back to the form it had before that first Office Action overcomes the §112 rejection while raising no new issues. Claims 50, 52, 57 and 62 are further being amended in accordance with the minor formal corrections required by the Examiner.

The sole art rejection, that of claim 63 under 35 U.S.C. §102(b), is being overcome by canceling claim 63. Claim 63 was rejected over Applicant's earlier patent 5,431,562. The

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Examiner is interpreting the "means" of claim 63 broadly to include any means capable of being used to perform the method of claim 49, even though the method claim 49 is not anticipated by the reference. Because this raises issues that can be better resolved in a divisional application containing other apparatus claims that have been withdrawn, Claim 63 is being canceled without prejudice from the present application.

Applicants enclose a Petition for Extension of Time, which includes authorization to charge deposit account No. 23-3000 in the amount of \$320. On September 24, 2004 Applicant paid the first month extension fee of \$110, which has been deducted from the second month's extension fee. Applicants believe that no other fees are due in connection with this submission. However, if an additional extension is due or any other fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

It is requested that this amendment be entered to place the application in condition for allowance and to avoid the need to brief and proceed with an appeal on only §112 issues.

Applicant respectfully submits that the claims, as amended, are allowable, and that the application is otherwise in condition for allowance. Accordingly, an early allowance is requested.

Respectfully submitted,

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